

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ozzie horton, )  
 )  
Petitioner, )  
 )  
v. ) Case No. 4:11CV984 HEA  
 )  
MICHAEL BOWERSOX, )  
 )  
Respondent, )

**OPINION, MEMORANDUM AND ORDER**

This matter is before the Court on the Order and Report and Recommendation of Magistrate Judge Thomas C. Mummert, III that Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 be denied without further proceedings. Although Petitioner was given an extension of time within which to file objections, Petitioner has not done so within the prescribed time period.

After careful consideration, the Court will adopt and sustain the sound reasoning of Judge Mummert as set forth in his Order and Report and Recommendation.

**Certificate of Appealability**

The federal statute governing certificates of appealability provides that “[a] certificate of appealability may issue . . . only if the applicant has made a

substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A substantial showing of the denial of a constitutional right requires that “issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings.” *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997). This Court finds that Petitioner has not made a substantial showing of the denial of a constitutional right. A Certificate of Appealability will therefore not be issued.

Accordingly,

Accordingly,

**IT IS HEREBY ORDERED** that Petitioner’s petition for writ of habeas corpus is denied.

**IT IS FURTHER ORDERED** that a Certificate of Appealability will not issue as Petitioner has not made a substantial showing of the denial of a federal constitutional right.

A separate judgment is entered this same date.

Dated this 11th day of August, 2014.



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HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE